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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/710,516    11/10/00    KOEFELDA    G    RPC-0485-PUS

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QM32/0531

EXAMINER

CASTELLANO, S

ART UNIT

PAPER NUMBER

3727

DATE MAILED:

05/31/01

*4*

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trad marks**

# Office Action Summary

Application No.

09/710,516

Applicant(s)

Koefelda et al.

Examiner

Castellano

Group Art Unit

3727

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-24 is/are pending in the application.  
Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-24 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2+3
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 18, 22 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 18 recites the limitation "the corresponding divider members" in line 2. There is insufficient antecedent basis for this limitation in the claim.
4. Claim 22 recites the limitation "the standoff portions" in lines 3 and 4. There is insufficient antecedent basis for this limitation in the claim.
5. Claim 24 recites the limitation "each lid capture area" in lines 2 and 3. There is insufficient antecedent basis for this limitation in the claim.
6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 12, 14, 17, 19, 20 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Gale.

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Gale discloses a crate with a bottom having an upper surface with a plurality of standoffs (78) for engaging a bottle bottom and the underside of the pivoting lid includes a recess (97) for engaging a bottle cap.

8. Claims 12, 15, 17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Apps ('814).

Apps discloses a crate with a bottom having longitudinal and transverse dividers which act as spacers and standoffs. The underside of the bottom receives projections and the underside of the lid also receives projections.

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-4, 7, 8, 10, 11, 13 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gale in view of Hammett ('836) or Hepp.

Gale discloses the invention except for the standoffs being attached to a divider. Hammett and Hepp teach dividers with standoffs attached thereto. It would have been obvious to add the divider with attached standoffs in order to reinforce the standoffs and space the divider from the bottles to prevent label damage.

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11. Claims 1, 7, 9, 10, 11, 13, 18 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gale in view of Poutainen.

Gale discloses the invention except for the standoffs being attached to a divider. Poutainen teaches dividers with standoffs (11) attached thereto and these standoff have a height less than that of the dividers. It would have been obvious to add the divider with attached standoffs in order to reinforce the standoffs and space the divider from the bottles to prevent label damage.

12. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gale in view of Hammett ('836) or Hepp as applied to claim 1 above, and further in view of Apps.

The combination discloses the invention except for the projection receiving portion on the underside of the bottom and the projection on the upper surface of the lid. Apps teaches the projection receiving portion on the underside of the bottom and the projection on the upper surface of the lid. It would have been obvious to add the projection receiving portion on the underside of the bottom and the projection on the upper surface of the lid in order to stack the crates with more stability since this arrangement doesn't slide easily.

13. Claims 13, 16, 22 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gale in view of Apps.

Gale discloses the invention except for dividers and projections on the upper surface of the lid. Apps teaches dividers and projections on the upper surface of the lid. It would have been obvious to add the divider to form a more definitive separation between the bottles so that one

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soiled bottle doesn't contaminate the other bottles in the crate. It would have been obvious to add projections to the upper surface of the lid in order to stack the crates with more stability since this arrangement doesn't slide easily.

14. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gale in view of Jamison.


Gale discloses the invention except for the lid lock. Jamison teaches a lid lock. It would have been obvious to lock the lid to prevent unauthorized access to the contents of the crate.

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

16. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703)305-3579. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into group 3720 will be promptly forwarded to the examiner.

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17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is (703)-308-1035.

  
Stephen Castellano  
Primary Examiner  
Art Unit 3727

May 17, 2001